THE COURTS.

EX-MAYOR HALL'S TRIAL.

Summing Up Addresses of Counsel for the Prisoner and for the Prosecution.

THE DEFENCE CALLS NO WITNESSES.

VERDICT "NOT GUILTY."

Enthusiasm of Mr. Hall's Friends.

Yesterday the second actual day of the third trial of ex-Mayor A. Oakey Hall, the case was given to the jury. The defence called no witnesses. The proceedings of the day were therefore entirely confined to the summing up of counsel on either side and the charge of the jury. The addresses of counsel were pretty lengthy, that for the prosecution occupying three hours. The court room was crowded throughout the day up to the moment that the jury retired to deliberate upon the verdict—six o'clock. The addresses of counsel and the charge of the Judge were listened to with the deepest attention. At ten o'clock Mr. Stoughton commenced

SUMMING UP FOR THE DEFENCE.

Mr. Stoughton said he had come to the conclusion, after an examination of the evidence, in view of the fact that the prosecution did not even intimate any connection with these frauds, except the technical one, that no evidence was called for on their part. Men had come before them with the hardihood to avow their own guilt and their own participation in the profits of that guilt. He supposed they spoke the truth. Had there been an intimation that Mr. Hall was a party to these frauds, or shared in the profits, they would have felt bound to answer the vaguest suggestions of that kind. But the prosecution did not even intimate such an idea. On their own theory, it was narrowed down to a simple technical question, whether Mr. Hall, without guilt, had been careless. It had been intended to make a distinct motion for a direction of acquittal, but, in deference to the desire of the jury to hasten through the cause, it had been resolved to present together that argument to the Court, and the direct argument to the jury, interweaving them as the matter should require. He quoted the case of The People vs. Bennett, in 49 New York Reports, to the effect that the Court may direct an acquittal, and might, in cases where the evidence was weak, upon the facts, and should where the evidence did not in any view warrant a conviction. He desired the jury to consider who Mr. Hall was. What were his relations to the city? For 12 years he was District Attorney. During that time his official life was stainless. No one had ever charged him with conduct unbecoming an officer charged with so grave an office. Examining every case, and never guilty of oppression, he had led a stainless official life. They might search the past in vain for a single utterance during that period to his discredit. Friends had grown up around him; children had grown up around him. His reputation stood high. There was everything to induce him to continue the course which had so far marked him. He became the Chief Magistrate of the city. In 1870 the whole framework of the city was changed. He had to launch the new city government. Imagine his constant duties during that period, with constant routine work, constant consultations, constant work of every kind, full of pride that he was inaugurating a new era. In 1871 there were charges spread abroad. At once he went to the Comptroller's Office to inquire into them, and what did he do? He appointed a committee, half of taxpayers, half of officials that they had from the prosecution. Did they believe that he felt then that he was more guilty than any of them? Monday was the day fixed by them for the examination of the accounts. The Sunday previous the vouchers were stolen. At once Mayor Hall invited Connolly to resign, incurring, of course, his enmity, willing, in his trust in his own honesty, to incur such enmity. Time went on, and, partly under the influence of political feelings, partly under feelings less creditable, this indictment was found. Mr. Hall went on in the discharge of his duties, fearless in the consciousness of his own innocence. The trial came, and then—whatever appeared before—it then appeared that not one dollar of this money had ever stained his hand. Then cleared before the public, the counsel had supposed, with many others, that the case was ended. But now, in this season of peace and good will, they were called again before a jury. They had seen how the case had been conducted. They had heard how often he, when making objections, had offered to withdraw any objection if the evidence was to show a dollar coming to Mr. Hall. What witnesses had they here? Keyser, most respectable looking; Garvey, not quite so respectable looking. Why were they at liberty? Was it to convict Mr. Hall? They, with Watson, gone to his long home, and Woodward, who was absent "for his health," sat down to weave a web of fraud to make up a bill full of items dated back. Whom did they want to deceive? It was not necessary to deceive Tweed or Connolly. The only man that must be deceived was Mayor Hall. If any of them had been present at Genet's trial they would remember that he was convicted of deceiving Mayor Hall. Another general consideration for them was this, that to constitute crime a guilty intent must concur with the evil act. What earthly motive had Mr. Hall for this act? Avarice and necessity were common motives for crimes. Those who had been convicted were convicted because they had been shown to have done these acts for their own advantage. But was there anything of the kind here? Garvey had told them of the distribution of the moneys, but was Mayor Hall implicated? There must have been not only an evil act, but an evil intent, and he quoted at length to the effect that the officer, to be responsible civilly or criminally, must have done the act wilfully—that is, against his convictions and maliciously; a mistake in judgment was not enough; he must have knowingly and intentionally perverted his powers to injustice. This act, under which the three first counts were framed, used this word "wilfully"—that is, intentionally, knowing it to be wrong, with a criminal intent, and he quoted cases so interpreting the law.

Counsel then discussed the section of the act of 1870, creating the Board of Audit. He called attention to the fact that the Legislature gave the Board no power to call or swear witnesses; it prescribed no measure of proof. It left to their discretion what manner of proof they would take. It left to them the right to pass a bill as any man would pass a bill of items presented to himself, on the theory that the man who presented the bill was honest. If they believed the bill was honest, could they be held criminally liable for auditing it? Was each judge diversely to decide what evidence was necessary, and so establish different rules of crime? Was it to be the ex parte oath of the claimant? Such oaths, Custom House oaths, were a byword. They were discontinued rightfully enough some years before. How did the Comptroller now do? He sent round an agent, and, on his report, paid the money. Was Mr. Hall to sit down and examine each bill, and strip from it the fraudulent garb, bill by bill? It was easy to be wise after the facts. The late great Emperor, who sent out his armies, believing them fully equipped, to meet a great people, could, after his defeats, easily see what frauds had sapped the strength of the army on which he relied. Wisdom that came after the fact was always to be distrusted. If Mr. Hall allowed only such bills as he then believed to be honest, he was in no sense liable criminally, and the prosecution, to establish criminality, must show, affirmatively, knowledge that they were not honest. The three first counts he had no doubt, notwithstanding the use of the word corruptly in the third count, were framed on the theory of a simple refusal to audit these accounts. The fourth count was the common law count for corruptly auditing. That he did not think his friends on the other side intended to insist on.

Mr. Tremain here interrupted, saying the prosecution intended to rely on all.

Mr. Stoughton expressed his surprise at this, as neither in the opening nor the testimony had anything of this kind been suggested. He proceeded to argue that the crime, under the statute, must be made out by proof that they had refused to do the act; not that they did it improperly or fraudulently, which fell under the common law; and if the defendants went through the act of audit and gave the form of a certificate of audit, they could not be held under the statute for refusing to audit, but under the common law for malfeasance. The theory of the prosecution was that there was no audit, either because they took insufficient proof or because they passed the bills knowing them to be fraudulent. He recalled to them the position at that time of the Board of Supervisors having exclusive jurisdiction to decide all claims against the county. When they were abolished the claims before them were transferred to three men. Mr. Connolly had been three terms a Senator, and was Comptroller, without then any stain on his reputation. Mr. Tweed had been elected to Congress, and again and again Supervisor, with then an unstained name. Watson had been County Auditor since 1862. On his stamp millions had been paid out without any accusation of fraud. Woodward, Clerk of the Board of Supervisors, with high trusts, was then unsuspected. They must look at what then existed, with the then lights; not with the lights we now had. Had Mr. Hall any right to suspect Mr. Connolly or Mr. Tweed or Mr. Watson or Mr. Woodward? The defendant was not a suspicious man, and even a suspicious man would not have taken alarm then. Thus stood matters in 1870, when Mr. Hall, overwhelmed with his duties, had to reorganize the city government. They had heard something of his duties. He claimed that with all these duties, and surrounded by these old officials, he was justified in taking their certificates and looking no further. Suppose Mr. Hall had said, We will pass no claims except those which have passed into judgment and are certified by the Clerk of the Court. That would have been thought a very stringent and very cautious rule. But this could not be done. The Courts could not pass on claims against the county; only the Supervisors could do that—and so Mr. Hall moved the corresponding resolution that they should pass only such claims as had passed the Supervisors or the appropriate committee, and that these claims should be certified to have so passed by the Clerk and the Chairman. Was not this equivalent to requiring the judgment of the Court and the certificate of the Clerk?

Counsel here read the resolution of the Board of Audit, and claimed that it was all the most cautious man could ask, demanding proof of the previous action of the Supervisors or the proper committee, authenticated by the President and Clerk, before they could act; and then they would act on what had been acted on for 13 years. This was a judicial determination of what was to be passed. After this it was a mere ministerial act to verify the signatures of the Clerk and President and sign the certificate. It was like the case where a board had decided a class of cases and afterwards signed separately the judgments in each particular case. He said this in view of the corner into which the prosecution was driven, and on which they rested their hopes that these auditors would have met on each bill. They remembered Mr. Storr's testimony, that these bills examined by him were authenticated and endorsed, as he had explained. They had seen the Keyser vouchers, and one of them, a long bill, had not now the authentication on it. But they must remember that these vouchers had been tossed about from court to court, and they were not sure it was in the state it was when it went before Mayor Hall. But when they remembered Mr. Hall's acquaintance with Mr. Keyser—his age and respectability, and that the bill was claimed to be honest, it was easy for them to see that it was no great neglect to accept such a bill with little examination. He recalled to them that the bills were all dated as far back as 1868 or 1869; that they were made out in great detail of items, that Mr. Hall could not detect the falsity of the items except by the confession of the parties who made them out. He reminded them that Mr. Hall had to sign an average of over 60 warrants a day and could not examine each bill, but must depend on the examination of subordinates. If juries were to hold an official a criminal for the acts of subordinates no honest man could be found to take office. It was hopeless for the prosecution to attempt to show any corrupt or fraudulent act in the Mayor's conduct. The prosecution relied on the theory that because they had not met together to consider each case therefore Mr. Hall was guilty. They had come down to that—a mere technical offence—and on that they proposed to imprison Mr. Hall for 55 or 110 years. Such a result would be disgraceful. But when they were reduced to that the law stepped in. The Board could have investigated the bills if they suspected them, without Garvey's presence. Woodward and Watson would have been the most natural persons for the Board to apply to.

Mr. Stoughton then, addressing the Court, called attention to the case in 49th New York Reports, and asked his Honor to consider, first, whether the construction which he had suggested ought not to be given to this statute, under which the indictment was found; whether there had not been what, in judicial consideration, must be regarded as an audit, and that if there has been an audit then the statute had not been violated, that there had been no wilful neglect to perform that act. If the Court came to a different conclusion, then to bear in mind the meaning of the word "wilful," that it is criminal neglect of a known duty either in auditing bills on testimony known to be insufficient and certifying bills known to be fraudulent, or that it is in a failure to meet under the act of 1870. Bearing that in mind, he would ask the Court to consider if there was any evidence to go to the jury that Mr. Hall had any knowledge or reason to suppose that these bills were false and fradulent, and whether he was not justified in acting judicially upon the testimony prescribed by that resolution, and that if the Board didn't meet there was no evidence whatever that Mr. Hall supposed or knew that they were bound to meet after the meeting referred to. He submitted further that there was no proof under the fourth count, and that upon that there should be an instruction to acquit.

Mr. Stoughton concluded with a brief appeal to the jury, invoking them to remember how entirely Mr. Hall was separated from those implicated in these frauds.

MR. TREMAIN'S SUMMING UP.

Mr. Tremain commenced his summing up by alluding to the unpleasantness of his duty in asking of them the conviction of a member of his own profession, and a gentleman for whom he had always felt respect. He could not shrink from that duty; but he would do it without, he believed, any cruel words, without swerving from the line of duty. The case was important to the defendant, his friends and family, but the individual importance of the case sank into insignificance compared with its immeasurably greater importance to the public. It would be sad if where, by the neglect of one man, and he the chosen guardian of the treasury, millions had been robbed from the public, a morbid sentiment should excuse him from punishment. The example of those in high places spread rapidly. If those who had high and imperial powers were allowed to perform these duties according to their wishes those lower in position would quickly imitate them. A Sheriff would, instead of obeying the mandate of the Court to convey a prisoner to jail, ride about with him to hotels and his home, meaning no wrong, and inferior officials, each in his degree, would similarly neglect to obey the law. This case was important to the public for the enforcement of law; to the widow and orphan, that they be not despoiled by the neglect of these guardians; important to the honor of the city; important to the State, whose good name had been brought into disrepute; to the nation, on whose name these transactions had brought dishonor. The jury had simply to determine the facts. If the offence was merely technical could they not trust the merciful Judge, who was trusted with a wide discretion—denied to the jury—and to the mercy of the dignified Executive of the State? Mr. Tremain then explained the difference of the punishments of misdemeanors and felonies. In this case they had presented 55 separate charges, four of which they had not attempted to prove. The 51 they had proved were on the warrants of Keyser, Garvey and Davidson. On each of these there were four counts, framed to meet the strictness required by the rules of pleading, the first three framed under the statute and the fourth under the common law. He explained to them that the statute made the wilful omission of an official duty a misdemeanor, while the common law declared any perversion of office also a misdemeanor. He recalled the fact that the defendant himself when District Attorney procured the conviction of Judge Bogart for a similar act, and in that argued that the word "corruptly" was mere surplusage, that the word "wilfully" meant "intentionally," and whatever his good faith, if he intended to do the forbidden act, it was doing it wilfully. In that position the Court sustained him.

The Court here took a recess.

After Recess.

Mr. Tremain resumed his argument for the prosecution, claiming in the beginning that a mistake on the part of Mayor Hall in the method prescribed by law for auditing these claims was no defence to him. He was bound to know the law. If he made a mistake, and under that mistake refused to or unintentionally did not do any duty imposed on him, he was guilty. He then discussed the question of what those duties were. He alluded to the almost imperial powers conferred by the Charter of 1870 upon the Mayor of the city, including this power to audit all these State claims. He argued that to audit meant to examine, to inquire into. That had been settled in the various trials growing out of the Board. He reminded them that it was their duty to take the law from the Court, and then, turning to the Court, argued that the duty imposed on the Board of Audit was to examine, investigate and call witnesses before them in joint meeting, and that the public was entitled to the joint action of the three minds, and that they could neither act separately nor delegate their powers to any. He read at length from Judge Davis' charge, and asked the Court to charge the same thing, and to the same effect the opinion of another Judge. It had been said that when it was ascertained that no portion of the money could be traced to Mr. Hall, the public mind expected that the case would be thus ended. Where was the proof of such a desired state of the public mind? He reminded them that the jury disagreed in the Tweed case. There were many reasons for the disagreement of a jury, especially while the first two men called were the judges of the other jurors, and great public officials had their thousands of henchmen in the community. The question of personal corruption sunk into insignificance beside the facts of this case. He had shown them that in this class of cases a man with the best motives might be a criminal if he substituted his own judgment for the law. They would remember that Mr. Connolly was appointed by the defendant, and a high eulogy had been pronounced on him by counsel for the defence.

Mr. Stoughton interrupted him, saying that he had simply spoken of Mr. Connolly's then position.

Mr. Tremain resumed his argument, pointing out that a thief who stole $25 was liable for a felony, while the man who, by his neglect, permitted this city to be plundered of millions could only be punished, under an old law, for a misdemeanor, because, to the credit of our own ancestors and of the English people, the possibility of such a crime was not anticipated. To no officer was such high authority given as to the Mayor. He was the elect of the people. To him the Legislature trusted these important duties as the representative of the whole people of the city, elected by an overwhelming majority. On the first day they met—it was at the Comptroller's office, the natural place, and accepted the duties imposed. If the duties were too arduous they need not have accepted them. There was no compulsion in this country to accept office, though so far there had been no need of testing the question, office-seeking being one of the organized industries of this country. The claim that the resolution was merely to get together bills already audited by the Board of Supervisors he stigmatized as entirely unreasonable. Once audited by the Board of Supervisors they needed no further audit. Again, they were to be sought in the committee rooms. Whoever heard of an audited bill travelling back to the committee rooms. Nor was any certificate of audit required. The fiat of William M. Tweed was to be enough. Woodward had no legal standing whatever. He claimed that in the light of subsequent acts this resolution was proof of an intent to accept Mr. Tweed's signature and that of his henchman in place of doing his duty. Referring to the Mayor's message to the Supervisors, in which he says his duty as auditor was merely ministerial, remarked that this was completely the opposite of the defence set up for him and an admission that the duty of auditing was neglected. If the Mayor felt his duties too onerous he should have resigned. But he never made any complaints of that kind, and he had no business to rely upon the signature of Tweed. If the jury should find a mere technical verdict it would be for the Court to administer a mere technical penalty. He did not ask the jury to find that any money went into the defendant's pocket, and he rejoiced to say there was no proof whatever that it did. In conclusion counsel said the waters of reform have commenced to flow, and it was for the jury to determine whether the waters of justice shall be arrested in their flow. If they found a general verdict of guilty, the defendant could only be punished for one offence, or they could find him guilty on all or any of the counts or vouchers. He excluded all thought that any relation existed between the defendant and any of the jurors except those disclosed on the investigation, and left the case in their hands. The address lasted nearly three hours.

JUDGE DANIELS' CHARGE TO THE JURY.

Judge Daniels commenced to charge at half-past four o'clock. He said the defendant was substantially charged with wilful neglect of duty. Certain changes were contemplated and were made in the city government, and by the statute the additional duty was imposed upon the defendant and two other officials. It was no novel duty. Ordinarily the duty is conferred on the supervisors for a county and the municipal officers for a city. It was required to be performed in this county by the Board of Supervisors, and in taking away the powers of that Board, which he understood were legislated out of existence, it became necessary that the power should be conferred upon others. There should be some authority of this kind to protect the public against spurious claims and do for them what individuals do for themselves when bills are presented, and secure a proper and complete investigation into these claims before making them the subject of payment. Claims existed which had not been made the subject of audit, and the Legislature took measures to provide for some action on these claims. It seems to contemplate an investigation of these 190 claims before their payment, and for this reason the defendant, the Comptroller and President of the Supervisors were to audit these claims and pay such as were found due, and that was the whole provision imposing the duty on the defendant which he is charged with having neglected. The term audit is one of ordinary signification, and seems to have been used by the Legislature in the same general sense as popularly understood in the community. As an instance of the use of the word he quoted from Senator Hahn, who, in reporting on a case, says the duty of an au auditor is to audit, examine, settle, and involves the exercise of judgment. That was the duty imposed upon the defendant. The statute contemplates the joint action of auditors and joint consummation of the duty imposed on them by making out their certificate of audit on which the bill was to be paid. The plain import of that act of 1870 was that these parties should meet together and act jointly in exercising the authority conferred. Their duty was to audit accounts left undisposed of when the law was passed, and it was necessary they should meet and act upon them, and then the determination of two would be final, and that decision was required to be embodied in their certificate. The object of this audit and this duty was to prevent the payment of spurious bills. If a proper investigation of these accounts had been made before the Supervisors their false and spurious character would have been discovered. Hence auditors should have demanded from the claimants some proof of the claims. The proceeding was not specifically enjoined, but it was left to their judgment to determine the evidence they would require as to these claims being honest, genuine claims—such evidence as in their judgment would be sufficient to justify the demands. They had it in their power to insist on the claimants producing such satisfactory proofs. The question the jury had to determine was whether, as the prosecution held they had proved, the defendant neglected that duty. The defendant, being a lawyer and a man of culture and ability, should be held to the strict performance of the duty imposed upon him by law. If a public officer wilfully neglects to perform a duty imposed upon him by law he is guilty of a misdemeanor. The duty imposed on the Board being of a personal and judicial character, which required investigation, they had no right to delegate that duty to any one else. It was, beyond doubt, a personal duty required of the members of this Board. Did he decline to perform that duty? If he did so designedly and purposely he committed a misdemeanor, for it is not necessary there should be any design to defraud. It is enough if a party designs to perform the act which creates the crime. By the resolution of May 5, 1870, these three persons met as a Board under the statute, and substantially accepted the duties. Then they resolved that the claims be collected by the County Auditor and passed through substantially, without investigation. This, however, was not the crime; it was the intention to commit it. For if their intention was to certify these accounts thus collected without examination, then there were the disposition and intention to decline their duty, and it was for the jury to say whether, as a matter of fact, that construction was to be put on the language of the resolution. But to find whether the crime charged in the indictment was committed it was necessary to go further and inquire whether that purpose was carried out. On this branch of the subject he referred to the testimony of Mr. Lynes, bookkeeper, as to the manner in which the warrants were made out and to the argument that some of the bills were of so grossly fraudulent a character that inspection by the Board would have revealed it. These were relied on by the prosecution as proof that the Board did not afterwards act together as a Board; that in one bill, for instance, the omission of the creditor's name on the bill would have prevented it from being passed and the county would be saved from paying the debt. These seven of Garvey's bills were made out from wholly imaginary circumstances, at the suggestion and with the connivance of county officials, not including the defendant. There was a possibility, at least, that these frauds would have been detected, and the public had a right to the benefit of an examination and inspection of the accounts. He next called attention to the largeness of the bills—$600,000 for work on the Court House in one month, the signatures to the certificates being in different colored inks, and the fact that the defendant's signature was not to one of the warrants, was evidence that the Board did not meet to perform their duty. He also cited the Mayor's message, in which the defendant speaks of the duty as a ministerial one. With regard to the defence, that the duties were too arduous, he instructed the jury that this would be no excuse. The officer cannot undertake the duty and wilfully neglect it, though he may postpone the duty, or he can entirely surrender his position. The claims to be passed upon were 190 in number, and, with the means at their disposal, the prosecution hold that no great length of time would be occupied by the examination. But, whatever time would be taken, the duty was there and could not be neglected or delegated to any one else. The presumption of the law is in favor of the defendant. He is not to be surmised guilty: but, on the evidence, the jury must be satisfied beyond a reasonable doubt that he committed the offence charged against him. If they were so satisfied, no matter how painful it might be to the defendant's friends that he had so involved himself, it was their duty to shut their eyes to the consequences and pronounce him guilty. He instructed them that unless they had an abiding conviction of the defendant's guilt they should find him not guilty. As to the other charges in the indictment, after some time spent in looking over the evidence, he had come to the conclusion of instructing them that there was no evidence to sustain the other charges in the indictment, and they should confine themselves to inquiring whether he intentionally and wilfully omitted to perform the duties prescribed by law. He also told them there was no evidence of conspiracy between the defendant and his associates, and nothing to connect him with the fraudulent making up of the bills.

Mr. Stoughton took exception to the charge that the resolution of the Board indicated a design not to perform the duty.

Judge Daniels said to his mind it did, but he left the construction to be put upon it to the jury.

The jury retired at six o'clock.

Waiting for the Verdict—A Verdict of "Not Guilty"—Tremendous Excitement in Court.

A wonderful degree of monotony, though with painful anxiety to many and the merest idle curiosity to others, characterizes waiting for verdicts. The present case was no exception. The retirement of the jury only increased the anxiety on the one hand and intensified the curiosity on the other. It was a notable fact, however, that the lingering crowd—and it was a crowd that filled the court room—was made up of far different material from those waiting for the verdicts in the cases of Tweed, Ingersoll or Genet. This was a most reputable assemblage, and among the multitude could be seen the faces of some of our most worthy and respectable citizens.

In the usual way, hardly had the jury withdrawn, when everybody began canvassing the probable verdict.

"It will be an acquittal or disagreement," said many a one. Not one was heard to express an opinion that there would be a conviction. And with this foregone conclusion, all waited patiently the coming in of the jury. Some walked about in the adjoining rooms and halls smoking quietly their cigars and chatting over the events of the trial. Most, however, remained in the court room. Mr. Hall did not leave the room once, but, surrounded by his counsel and personal friends, talked with them and they with him in the same easy, quiet way as though they were discussing the most ordinary topics of the day at the club.

"Of course this waiting for the verdict," the HERALD reporter remarked to Mr. Hall, "is to you a little more tedious than to the rest of us."

"It is certain the crowd linger as though it was not very tedious to them," he answered gayly, "Perhaps like the old playgoers, at Brougham's Lyceum, who went to see the rather dull drama 'Waiting for a Verdict,' they are waiting to see the concluding more agreeable piece, 'The Happy Man.'"

"It is to be hoped they will see the happy man, in yourself," answered the reporter.

"That's to be wished," he answered, and then he went on to tell us a somewhat singular circumstance in his literary career, that some 18 years ago he wrote a story for Bonner's *Ledger*, entitled "The Christmas Jurymen." The story, he explained, comprised a series of stories told by the twelve members of the jury who, not being able to agree upon a verdict, had been locked up Christmas Eve, and, finding that they could not agree, whiled away the time by telling these stories. After telling this incident he said that the present was not the first Christmas Eve he had sat up waiting for a verdict. He did this, he remembered distinctly, on the trials of Cancemi and Huntingdon. "But it was a little different then," he added; "I then was the prosecutor, and now I am the prosecuted."

Everybody who knows ex-Mayor Hall is fully aware that no more entertaining conversationalist is to be found. Anecdote and the sparkle of wit are indigenous to him. He was in the midst of an interesting story, and the talk was of dramatic matters, of which no one is better posted than he, when it was announced that the jury was coming in. "I'll finish the story by and by," he said, pleasantly breaking off his narration abruptly, and then turned round to scan the jury as they took their seats.

It was a few minutes past eight when the jury came in. It is unnecessary to state that the utmost eagerness prevailed to know the result. But the final result was not to be announced yet. The foreman simply asked if they could bring in one of the two verdicts—a verdict of simple neglect or one of wilful neglect. Judge Daniels told them they could bring in either of these verdicts, and then they retired again.

"A ray of hope," said one.

"A certain disagreement," exclaimed another.

"An acquittal sure," and this was what the most said.

It was the general impression that the jury would now bring in a speedy verdict. But an hour passed, and then two hours, and they had not yet returned. At a quarter past ten o'clock came the announcement, "The jury are coming." Judge Daniels had taken his seat on the bench. Recorder Hackett sat by his side. Mr. Hall sat in his accustomed place, and his faithful counsel and friends were still by his side. All felt as deeply and painfully interested as he. As the jury took their seats every eye turned upon them to penetrate, if possible, the secret hidden in their hearts. Mr. Hall gave each a sharply scrutinizing gaze.

"Gentlemen of the jury—Have you agreed upon a verdict?" asked Mr. Sparks, the Clerk.

"We have," answered the foreman, and at the announcement a death like stillness pervaded the court room and every head bent forward and every eye looked upon the foreman with increasing intensity.

"How say you?" proceeded Mr. Sparks. "Do you find A. Oakey Hall, the prisoner at the bar, guilty or not guilty?"

"Not guilty," said the foreman.

The scene of excitement that followed cannot be described. United cheers sprang from every throat and united hats and handkerchiefs were waved wildly above every head. Judge Daniels rapped order with his gavel, officers shouted to still the tumult. It was no use. The crowd was pleased, wild, uproarious. They could not and would not be restrained till they had given expression to the exuberance of their joy. But they soon subsided. All eyes were now directed to Mr. Hall. The great tension had reached its limit. For a moment his physical energies gave way. He bowed his head upon the table before him. The reaction was too great. There was something touchingly tender in this scene, and, while every heart was full of joy, no one for a moment intruded upon him. Soon he roused himself, and then came a scene of congratulations and handshakings such as has never been witnessed before in a court room in this city. He was fairly besieged; "Happy Christmas!" greeted him on every hand, greeted him while he still lingered in the court room, greeted him as he passed out into the vestibule, and rung out on the still night air, as with his counsel he stepped into his carriage and was whirled from sight.

THE WEST FARMS SCHOOL FIGHT.

The Fight Transferred to the Supreme Court—Charges and Counter Charges—An Acrimonious Controversy.

The subject matter of the controversy in West Farms over the new school building has already been pretty thoroughly ventilated in the HERALD. The fight has not ended by any means, but, having been transferred to the courts, is waged on both sides, if anything, with increasing energy and animosity. A very lively legal skirmish, which at one time threatened to reach the magnitude of a general engagement, took place yesterday before Judge Brady, in Supreme Court, Chambers. Mr. John B. Haskin, the "head and front" in the fight for the new school building, was on hand, and with him a goodly host of supporters. His lawyer, ex-Judge Emott, was also on hand, and evidently eager for the fray, his legal opponent being Mr. John E. Parsons, who in this case represents the interests of the Corporation Counsel, the latter having, in behalf of the city, instituted the present proceedings. As is well known, these proceedings began with obtaining, a few days since, a temporary injunction restraining the West Farms Board of Education from removing the furniture from the old school buildings, from leasing or otherwise disposing of these buildings and using the new building for school purposes. The case came up yesterday on an order to show cause why this injunction should not be continued.

The complaint, which is quite a voluminous document, recites the act of the Legislature annexing to New York that part of Westchester county, with the provision that the property of the school districts shall be transferred to the Board of Education of New York; and alleges that in the latter part of 1872 the erection of a new schoolhouse was begun near the Harlem Railroad depot; that the land on which it was erected belonged, until a time shortly prior, to Mr. Haskin, the President of the Board; that he was interested in its sale and conveyance, and that as such President he was disqualified from selling it for the schoolhouse; that the site was very unsuitable and the locality unhealthy; that the Board of Education of West Farms had applied to the New York Board to include in their estimate enough to pay for this schoolhouse; that Mr. Haskin is making strenuous efforts to impose the schoolhouse upon the Board of Education; is making arrangements to lease or otherwise dispose of the existing school buildings and to dismantle them so as to make them unsuitable for school purposes, and to remove the school furniture to the new schoolhouses. Mr. Fordham Morris, one of the five persons appointed by the New York Board of Education to be school trustees for the new district, verifies the statements set forth in the complaint.

In opposition Mr. Emott produced a large number of affidavits, among them of William Meikleham and A. T. Buckhout, Secretary and President of the West Farms Board, setting forth that the action complained of was legal and proper, that Mr. Haskin had not been President of the Board since last May, and that the land when sold for the school, belonged to Judge Tappen, who made affidavit that he purchased it as a business transaction free from fraud and collusion. The affidavit, signed by a large number of citizens, was also submitted, setting forth that the new schoolhouse was a very suitable and necessary building for school purposes, and that the site was a very convenient and healthy one.

After quite a lengthy argument Judge Brady took the papers, reserving his decision.

BUSINESS IN THE OTHER COURTS.

UNITED STATES CIRCUIT COURT.

The Case of Edward Lange—Application for a Writ of Habeas Corpus Refused.

Yesterday the full Court—consisting of Judges Woodruff, Blatchford and Benedict—sat in the United States Circuit Court room, at No. 27 Chambers street, for the purpose of hearing argument on the matter of the order calling upon the United States District Attorney, Mr. Bliss, to show cause why a writ of certiorari and habeas corpus should not be issued for Edward Lange, who had been recently convicted and sentenced to imprisonment for illegally converting mail bags to his own use.

Mr. Arnoux, counsel on behalf of Lange, presented to the Court the record of the case, which has been frequently published and alluded to in the HERALD report of this matter. The prisoner was sentenced by Judge Benedict to one year's imprisonment and to the payment of a fine of $200. Subsequently it was ascertained by the Judge that for the offence in question it was not within his power to impose fine and imprisonment and that the sentence should have been imprisonment or fine. This sentence was, therefore, recalled by Judge Benedict, and the prisoner was re-sentenced to one year's imprisonment. But before this new sentence had been imposed the prisoner had complied with the first sentence so far as paying the fine and serving out five days of his imprisonment. The question now comes, is it within the power of the Court legally to rescind a sentence and pronounce a new one?

Mr. Arnoux, in addressing himself to this question, whether the verdict stood generally guilty, as entered on the minutes of the Court, or it be the special verdict which the jury did, in fact, render, the sentence of the Court could only be pronounced on one indictment as a unit, and for only one conviction and punishment. He alluded to the argument of counsel and the opinion of Judge Davis in the case of William M. Tweed, and cited the declaration of Judge Benedict that there was only one conviction in the case; that his charge to the jury had regard to only one transaction, and that he intended, in the sentence, to punish for the commission of one offence only. But the defendant claimed that a Judge or Court, sitting as a court of review, could not always be bound by the record of the Clerk in the minutes of the Court where the sentence was imposed, but that the Court might have matters relating to the record and the entries therein brought before it. Counsel further contended that the first sentence upon Lange was illegal and void. It was the duty of the Court to discharge Lange when the illegality of the sentence was established. The alternative was given to the Judge, under the law, either to impose a fine or to imprison, but it was not legally within his power to do both. It, therefore, was a grave question whether the effect of a double sentence was to render illegal the whole or only the excess of punishment; and if the latter, what was the excess of punishment? The defendant contended that if any part of the sentence could stand then that which was last should stand in preference to that which was first. If any part of the sentence could stand the infliction of the fine subsequent to the imprisonment, the former being, under the law, in full satisfaction of the crime of which Lange had been convicted, must be the whole punishment, as the fine had been offered to and received by the United States in satisfaction of that portion of the sentence. The sentence was, in part, executed, and had become beyond the control of the Judge who pronounced it, as Lange had been imprisoned under it, and had paid the penalty in full. Counsel went on to contend that the power of the Court had been exhausted in the first sentence, and that the second was entirely without any jurisdiction. On these grounds the defendant was entitled to the writ asked for and to his discharge from a wrongful and illegal confinement.

Mr. A. H. Purdy, United States Assistant District Attorney, in reply, adverted to the Callicott case, in which he maintained that Judge Woodruff held that he had no jurisdiction to review on habeas corpus the judgment of the Circuit Court on a conviction and sentence on an indictment, on the allegation that the statute under which the sentence was inflicted had been repealed before the sentence was passed. Counsel urged that the principles of that case should apply to the present one, and maintained that the Court had power to rescind an erroneous sentence and impose a new, if, as in the present instance, such a proceeding were had in during the term of the Court within which the prisoner had been tried.

THE JUDGMENT.

At half-past three o'clock the Judges took their seats upon the bench, when Judge Woodruff delivered the opinion of the Court as follows:—

We are of opinion that the judgment rendered in this case, it being for a punishment expressly authorized by statute, cannot be impeached under proceedings by habeas corpus, if the Court had jurisdiction to pronounce that judgment. The only ground upon which that jurisdiction is questioned is that the Court had, upon a previous day in the same term, pronounced judgment imposing a different punishment. That former judgment had been vacated by order of the Court. If the Court had power to vacate that judgment it became of no effect, and it was the duty of the Court to proceed to deal with the prisoner upon his conviction of the offence charged in the indictment. That the Court had such power is, we think, established by the authorities referred to on the argument. The Court having such power during the same term, the former judgment is to be regarded as being subject to the exercise of such power by the Court, if required by the ends of justice. Any inconvenience to the prisoner wrought thereby is to be regarded as one of the incidents to the administration of justice, arising from the temporary occurrence of error or irregularity, and such former judgment being confessedly wholly illegal, what was done under it can have no effect to take away the jurisdiction of the Court to proceed at the same time to a legal sentence. We are, therefore, of opinion that the prisoner is not deprived of his liberty in contravention of the constitution or laws of the United States, and that if he were before us on the writ prayed for we should be compelled to remand him to the custody in which now is. The application is, therefore, refused.

SUPREME COURT—CHAMBERS.

Decisions.

By Judge Ingraham.

Lienan vs. Southside Railroad Company et al.—Motion denied.

Kreiter et al. vs. Bank for Savings in City of New York.—Motion to appoint a guardian ad litem is granted. (See memorandum.)

Nichols vs. Jenkins et al.—Motion denied. (See memorandum.)

Guischard vs. Guischard.—Allowed to defendant for her defence the sum of $100. If she can disprove the charge against her she may renew the motion for alimony.

The Tuttle & Bailey Manufacturing Company vs. Board of Estimates.—Motion denied. (See memorandum.)

By Judge Brady.

Jay vs. De Groot.—Order granted.

Wood and another vs. Hale et al.—Order granted.

SUPREME COURT—CIRCUIT—PART 2.

By Judge Van Brunt.

Maryland Coal Company vs. Edwards; Stedham vs. Shannaham.—Cases settled.

SUPERIOR COURT—SPECIAL TERM.

Decisions.

By Judge Freedman.

Black vs. White.—Allowance of $250 granted to defendant.

Henderson vs. Henderson.—Report confirmed and judgment of divorce granted.

Slicht vs. Reazelman.—Motion denied with $10 costs.

Oakley vs. The Mayor, &c.; Brown vs. Northrup; Freeman vs. Rathnan; Mayor vs. Waugh.—Orders granted.

By Judge Sedgwick.

Boyle vs. The Mayor, &c.—Findings and conclusion signed.

COURT OF COMMON PLEAS—TRIAL TERM—PART I.

Getting Befogged Over a Foggy Subject.

Before Judge Lasremore.

The suit brought by Thompson & Co. against William S. Fogg, and not against Mr. S. Fogg, was to compel the payment of a bill for feathers bought by William S. Fogg of Thompson & Co. Payment was resisted on the ground that the feathers were "loaded," and the verdict was as stated. From the previous report the impression would be that Mr. Fogg sold the feathers instead of being the purchaser.

COURT OF GENERAL SESSIONS.

The Escape of Sharkey—Commencement of the Trial of "Magg[illegible]" Jourdan—A Jury Empanelled—The Case To Be Resumed on Monday.

Before Recorder Hackett.

The case of Margaret or "Maggie" Jourdan, who is jointly indicted with Sarah Allen and Lawrence Phillips for conspiring to effect the escape of William J. Sharkey, a convicted murderer, from the Tombs, was on yesterday's calendar. Assistant District Attorney Russell said that he had every reason to believe he was ready to proceed with the trial, but he discovered that an important witness (Mrs. Broderick) was absent. She left the city to visit her friends in Pennsylvania, but would return before Monday. Ex-Judge Beach, the prisoner's counsel, made an urgent appeal that the case might proceed, stating that the accused was suffering from ill health. His Honor directed that the trial should proceed, remarking that he would adjourn the case when a jury was procured until the witness returned. The whole of the day was occupied in examining jurors as to their competency to give "Maggie" a fair and impartial trial, Messrs. Beach, Howe and Mott conducting the examination. A large number of jurors were excused because they had formed an "impression" that the prisoner was guilty from what they read in the newspapers. Subjoined are the names of the jurors sworn to try the prisoner:—Herman Dessoir, furniture, No. 168 East Ninety-third street; Siegfried W. Mayer, varnish, No. 80 Beekman street; Frederick F. Martinez, artist, No. 82 Fifth avenue; Charles H. Medicus, furniture, No. 340 East Forty-ninth street; Moses Heilman, laces, No. 318 East Ninth street; Lyle Reid, machinist, No. 155 East 116th street; John Jennings, builder, No. 509 East Eighteenth street; John Ryan, boxes, No. 44 Prince street; Patrick Moore, liquors, No. 403 East Houston street; John M. Moffitt, sculptor, No. 359 West Nineteenth street; John E. Cosies, clerk, No. 346 Lexington avenue; Frederick Sturgis, tea, No. 36 Park avenue.

Before discharging the jurors His Honor the Recorder particularly cautioned them not to permit any person to converse with them upon the subject matter of the trial, whereupon the Court adjourned till Monday next, when Assistant District Attorney Russell will open the case and the trial will proceed.

TOMBS POLICE COURT.

Before Justice Morgan.

Frederick S. Pincus, a merchant, doing business at Nos. 87 and 89 Leonard street, appeared before Judge Morgan, at the Tombs Police Court, and preferred a complaint against Charles Ammon, alias Herman Zeitz, and Morris Rosenthal, whom he charges with having forged a letter of credit directed to himself and purporting to emanate from S. Fleischauer, of Lespic, in favor of one of the prisoners for the sum of $100. Believing it genuine, Mr. Pincus, on presentation, advanced $50 on it. On ascertaining its character he procured the arrest of the prisoners by Officer Stevens, of the Fifth precinct. Both confessed their guilt and were held for trial.

UNITED STATES SUPREME COURT.

WASHINGTON, Dec. 24, 1873.

No. 477. Knowles vs. Logansport Gaslight Company—Error to the Circuit Court for Minnesota.—This is an action by the company to recover on a judgment obtained in Indiana. The defence was want of jurisdiction of the person of Knowles in the Indiana case, and the return of the Sheriff certifying service of summons, but not showing where it was served, having been admitted as evidence of service against defendant's objections, he brings the ruling here, and raises the following questions:—Was the certificate of service properly received as evidence of jurisdiction, and, if so, can it be contradicted on the trial of the action? The further question is raised, If service is made in an action for $3,000, does that give jurisdiction to render judgment for more than that sum? Submitted under the twentieth rule. H. R. Bigelow for plaintiff in error; F. R. E. Cornell for defendant.

No. 169. Buckley vs. United States—Appeal from the Court of Claims.—This is another suit for damages for an alleged violation of a contract made with the government for transportation of military stores. The Court below found that the government having simply failed to produce the amount of stores for transportation which were contracted for, were not guilty of a violation of the entire scope of the contract, and therefore refused the claimant damages for the profits of the contract lost in consequence of such failure, but allowed him the amount of the expense he had incurred in preparing for the transportation. It was, however, held that he had not sufficiently proven the amount of such expense, and the bill was therefore dismissed. From this decision the claimant appeals, insisting that he should have damages for his loss of profits on the contract. The government submits that the decision below was correct. Durant and Homer for the claimant; C. H. Hill for the government.

No. 542. McCarty vs. Mann et al.—Appeal from the Circuit Court for Minnesota.—This was an action to quiet title to certain vacant and unoccupied lands in St. Paul, brought by the appellant. The appellees claim, under a conveyance from the patentee, made prior to his patent; and as the appellant disputes the validity of the entry of the patentee, the question arises whether an act of Congress reinstating an entry made by the patentee, which had been cancelled by the Commissioner of the General Land Office, so that the tittle in said lands may inure to the benefit of his grantees, so far as he may have conveyed the same, is such a recognition and ratification of the original entry as will sustain the title of his grantees, made in pursuance of such entry, and which is in the appellees. The appellant maintains that the patentee had no title until after his entry under the special act, and that if this be so he (appellant) has the better title, derived from the grantees, who took from him immediately thereafter, and that the act did not renew an old title in the patentee, but created a new one. Submitted under the twentieth rule. W. P. Clough for appellant; H. I. Horn for appellees.

No. 134. Sohn vs. Waterson et al.—Error to the Circuit Court for the District of Kansas.—This was an action on a judgment recovered in Ohio against the defendants in 1854. The defence was the statute of limitations of the Territory of Kansas (the defendant Waterson being, when the suit was brought and the act was passed, a resident there) passed in 1859, providing that all actions founded on contracts, notes, bonds, judgments, &c., upon which liability accrued beyond the limits of the Territory, should be commenced within two years next after the cause of action accrued. The plaintiff replied that the statute did not apply to his case, because it was passed after his cause of action accrued. The Court held that as Waterson was a resident of Kansas when the Territorial act went into operation, the limitation began to run from that period, and that as the action was not commenced within two years after, it could not be sustained. This judgment is sustained here, the Court holding that the act was prospective in its operation, and affected existing causes of action only from the time of its passage. Mr. Justice Strong delivered the opinion.

No. 576. Sawyer vs. Hoag—Appeal from the Circuit Court for the Northern District of Illinois.—In this case it is held that a debtor of an insolvent cannot purchase claims against his creditor having full knowledge of the insolvency and have them set off at their full value against his indebtedness to the insolvent, and the decree below enforcing the same view is affirmed. Sawyer subscribed to the capital stock of the Lumberman's Insurance Company upon an understanding that 85 per cent would be loaned back to him upon a secured note for the amount. The insurance company becoming insolvent after the great fire in Chicago Sawyer bought up adjusted claims against the company and sought to have them set off against his indebtedness on the note. The decision treats him as an ordinary debtor of the company and holds that the set off cannot be allowed. Mr. Justice Miller delivered the opinion. This decision also disposes of cases 579, Jaegar vs. Voeke, and 580, Meyer vs. Voeke, and the decrees in those cases are affirmed.

No. 165. Solomons vs. the United States—Appeal from the Court of Claims.—Solomons was under a contract with the government to furnish a certain quantity of corn within a certain time, and delivered about three-fourths of it within the time fixed. Subsequently a quartermaster agreed to accept a further quantity under the contract if delivered within another limited time. The amount was delivered and a voucher given. A part of it was used and a part damaged while lying in the fort. The department subsequently refused to pay for the portion not used, on the ground that the contract had expired and could not be extended by verbal agreement. The voucher was accordingly reduced, and payment tendered and declined. The Court below sustained the department, and its judgment is here reversed, and the cause remanded with directions to enter a judgment for the amount of the voucher, the Court finding that the time was extended verbally and that such agreement was valid. Mr. Justice Miller delivered the opinion.

No. 480. Town of Ohio vs. Marcy—Error to Circuit Court for the Northern district of Illinois.—This was an action on municipal bonds issued by the town, and the defence was that they were not issued by the road for which the subscription was made, but to a consolidated road subsequently chartered. The judgment on the facts found was for the holder of the bonds, and the case was brought here for review; but the Court say that the question of law raised is not presented in the record, and the judgment is accordingly affirmed. Mr. Justice Miller delivered the opinion.

Mr. Justice Miller also delivered the opinion in No. 94, Wilson, assignee, vs. City Bank of St. Paul. [Telegraphed for publication on Tuesday, the fact being then inadvertently omitted.]

No. 463. County of St. Clair vs. Livingstone—Error to Supreme Court of Illinois.—Dismissed for want of jurisdiction.

No. 596. Ex parte Robinson—Error to the Circuit Court for the Eastern district of Arkansas.—Motion to advance denied.

No. 666. Hodges vs. Vaughan—Error to the District Court for the Western district of Arkansas.—Motion for certiorari denied.

No. 154. Hall et al. vs. Jordon—Error to the Supreme Court of Tennessee.—Affirmed, with 10 per cent damages.

FIRE COMMISSIONERS.

A New Battalion Organized for the Twenty-third and Twenty-fourth Wards.

The Fire Commissioners met yesterday morning, Commissioner Perley in the chair. Various communications, applications for appointment, &c., were referred to the appropriate committees. Reports of various chiefs of bureaus were submitted, one of which announced the sale of 16 condemned horses. Approved. Chief Orr recommended the sale of condemned engines and boilers. Concurred in. A report was read in regard to the present condition of the Fire Department of Morrisania. The value of the real estate was stated at $35,300; the number of engines, four; the hoses, three; hook and ladder, two; total value of these, $7,875. The value of the bells and towers was estimated at $1,600 and of the hose $1,000. The Commissioners resolved to organize before the 15th a new (the Tenth) battalion, to be composed of 60 firemen and a chief, for the Twenty-third and Twenty-fourth wards, the battalion to be divided into eight companies, each commanded by an assistant foreman. It was decided to begin operations in these new two wards from January 1, by ordering the Harlem companies on duty until the new battalion should be in perfect working order. Commissioner Perley in answer to the question of a reporter of the HERALD, that the members of the new battalion would be appointed from the present force in the city.

After disposing of some unimportant business the Commissioners adjourned.

PARK COMMISSIONERS.

Special Meeting on Tuesday Evening—A Number of Reappointments.

The Park Commissioners held a special meeting late on Tuesday evening, Mr. Wales, the President, in the chair. It was decided to lay out the streets of the southwestern portion of Kingsbridge. A very large number of the employés of the Board were reappointed, among others Mr. Frederick L. Olmstead as landscape architect, at a salary of $6,500 a year; Mr. John Bogert as engineer of the department, at $5,200; Mr. J. Wrey Mold as assistant architect, at $5,200; Mr. Julius Munkwitz as superintending architect, at $4,500. The Board then adjourned till Friday morning.